

Statement of

# The Honorable Patrick Leahy

United States Senator  
Vermont  
December 13, 2007

Opening Statement of Chairman Patrick Leahy  
Executive Business Meeting  
December 13, 2007

This week we have held three more important hearings before the Committee. I have noticed two more hearings next week to consider several of the President's Executive Branch nominees. Regrettably, many of those announced for top Justice Department positions were not, in fact, nominated when announced, and even after those nominations were finally received, many still lack the necessary background checks and materials necessary to be considered. We are proceeding expeditiously with the nomination of Mark Filip to be the Deputy Attorney General and will hear from him next Wednesday. I noticed that hearing immediately upon receiving the nomination and background materials.

This week's agenda includes a number of items I had hoped the Committee would have considered last week but that were carried over. We begin with the resolutions arising from the failures of Karl Rove and the President's chief of staff to honor this Committee's subpoenas. As the Ranking Member has said, when we issue subpoenas, we need to follow up. We have worked together during the last week to modify the language in the resolutions and I believe we can proceed efficiently this morning to consider and approve those items. The White House's blanket claims of executive privilege and immunity are insufficient to excuse current and former White House employees from appearing, testifying and producing documents related to this Committee's investigation. Having been directed to comply with the Committees' subpoenas, they have not done so and now we must take the next steps to enforce the Committee's subpoenas. This is not a step I have wanted to take -- in fact, I have tried for many months to find ways to work with the White House and avoid a confrontation.

The President has not accepted responsibility for the firings or given any indication that he was involved in White House efforts to politicize federal law enforcement. Instead, the White House line is that "mistakes were made." Apparently no one, least of all the President, is responsible, yet somehow executive privilege supposedly applies to cloak all White House activities and communication in regards to these firings affecting the independence and integrity of federal law enforcement from oversight.

The White House counsel asserts that executive privilege covers all documents and information in the possession of the White House. They have gone further and claimed absolute immunity even to have to appear and respond to this Committee's subpoenas for Mr. Rove and Mr. Bolten. And they contend that their blanket claim of privilege cannot be tested but must be accepted by the Congress as the last word. Their views of the unitary and all powerful Executive know no bounds.

The position taken by this White House in refusing to turn over documents or allow White House officials and former officials to testify is a dramatic break from the practices of every administration since World War II in responding to congressional oversight. In that time, presidential advisers have testified before congressional committees 74 times, either voluntarily or compelled by subpoenas.

Executive privilege should not be invoked to prevent investigations into wrongdoing, and certainly should not prevail. These resolutions are an effort to provide a fuller account and accountability. We should act to protect Congress' ability to conduct oversight and the right of the American people to learn the whole truth about the U.S. Attorney firings.

During the past week we have learned that the CIA destroyed videotapes of detainee interrogations. That revelation is leading to another investigation. As the Ranking Member on this Committee from 2001 through 2005, I was not informed of the existence of the videotapes or of their destruction. I do not believe the Republican Chairmen were either. I have repeatedly sought information about the Administration's interrogations of detainees, including in connection with the consideration of the Mukasey nomination and my October 25, 2007, letter to the White House counsel. We continue doing so. This week Senator Specter and I jointly wrote the Attorney General seeking information relevant to the tapes, their destruction and the preliminary inquiry now underway within the Executive Branch. Surely, Congress must retain the authority to investigate and even subpoena relevant information without being foreclosed by blanket claims of executive privilege. I ask unanimous consent that an editorial from Vermont's Rutland Herald about the destruction of these tapes be included in the record. We will next turn to Senator Specter's bill to use the legal concept of substitution as an alternative to retroactive immunity in connection with the warrantless wiretapping of Americans contrary to law from 2001. I commend his constructive effort and look forward to that discussion.

Also on our agenda is our bipartisan bill to adjust judicial pay. I introduced this bipartisan legislation with Senators Hatch, Feinstein, Graham, Reid, and McConnell almost six months ago. It was the first bill introduced on this matter following the plea from the Chief Justice at the beginning of the year. This bill would authorize an increase in federal judicial salaries to recognize the important constitutional role judges play in administering justice, interpreting our laws, and providing the ultimate check and balance in our system of government. Since 1969, the salaries of federal judges have significantly declined when adjusted for inflation.

Eight years ago, Congress saw fit to double the President's salary to \$400,000 a year. We are not proposing to increase judges' salaries by 100 percent, but by half that. Our democracy and the rights we enjoy depend on a strong and independent Judiciary. Surely we can do half as much for the judicial branch of government as we did for the Executive eight years ago. This was a key subject in the Chief Justice's annual report for this year and I would like this Committee to act on it today.

I trust that the Republican holdover of the bill for the reauthorization of the National Center for Missing and Exploited Children will not portend further delay and that we can consider and report that measure without complications.

I urge all Members who have not yet arrived to come and participate with us in the work of the Committee.

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Statement of Chairman Patrick Leahy  
On S. 1829, the Protect Our Children First Act of 2007,  
Senate Judiciary Committee, Executive Business Meeting  
December 13, 2007

Today we consider three important pieces of child safety legislation. We can all agree that we should do everything we can to protect our children from being victimized by predators. I am pleased that we have before us three bills that take important steps toward this goal: the Protect Our Children First Act, the Internet Safety Education Act, and the KIDS Act.

I am delighted that Senator Hatch agreed to join with me as the lead cosponsor to introduce the Protect Our Children First Act, which reauthorizes the National Center for Missing and Exploited Children. Senator Hatch and I have worked together many times over the years on legislation to protect the safety and welfare of our children, and I thank him for his continued leadership. I am disappointed that we could not pass this bipartisan, consensus bill out of Committee last week because of an anonymous hold, but I am pleased that we can move it today.

It pains us all to see on TV and in the newspapers photo after photo of missing children from all around our country. As a father and grandfather, I can imagine that an abducted child is any parent's worst nightmare. Unfortunately, it is a nightmare that happens all too often. Indeed, the Justice Department estimates that 2,200 children are reported missing each day. There are approximately 114,600 attempted stranger abductions every year, with 3,000 to 5,000 of

those attempts succeeding. These families deserve the assistance of the American people and a helping hand from Congress and from federal agencies.

As the Nation's top resource center for child protection, the National Center for Missing and Exploited Children spearheads national efforts to locate and recover missing children and raises public awareness about ways to prevent child abduction, molestation and sexual exploitation. Further, NCMEC works to make our children safer by acting as a national voice and advocate for those too young to vote or speak up for their own rights.

The Center operates under a congressional mandate and works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention to coordinate the efforts of law enforcement officers, social service agencies, elected officials, judges, prosecutors, educators, the United States Marshals Service, and the public and private sectors to break the cycle of violence that historically has perpetuated these needless crimes against children. Child advocates like John Walsh, who was supportive of the Congress's work to enact the National Center's charter, also continue to support the Center's vital mission.

The Center's professionals have busy jobs. They have worked on more than 127,700 cases of missing and exploited children since its 1984 founding, helping to recover more than 110,200 children. The Center raised its recovery rate from 64 percent in the 1990s to 96 percent today. It has set up a nationwide, toll free, 24-hour telephone hotline to take reports about missing children and clues that might lead to their recovery, a National Child Pornography Tipline to handle calls from individuals reporting the sexual exploitation of children through the production and distribution of pornography, and a CyberTipline to process online leads from individuals reporting the sexual exploitation of children. The Center has taken the lead in circulating millions of photographs of missing children, and it serves as a vital resource for the 17,000 law enforcement agencies located throughout the Nation in the search for missing children and in the pursuit of adequate child protection.

The National Center for Missing and Exploited Children manages to do all of this good work with an annual Justice Department grant, which is set to expire after fiscal year 2008. We must act now to extend its authorization so that it can continue to help keep children safe and families intact around our Nation.

The Internet Safety and Education Act recently introduced by Senator Menendez also makes important strides in teaching our children about internet safety. The grant program created under this bill will give educators and parents the tools necessary to teach proper online interactions and promote safe Internet usage to their students and children in an age-appropriate manner. At a time when more and more youth are using the Internet to communicate, it is essential that we utilize programs that teach our children how to use the Internet safely.

I have also been glad to work with Senator Schumer on the KIDS Act. He has worked in good faith to make improvements to the bill, and I appreciate all he has done on the legislation. I hope that the Committee will pass all three bills cleanly so that they may quickly be enacted into law to help keep our children safer.

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Statement of Senator Patrick Leahy,  
Chairman, Senate Judiciary Committee  
On S. 1638, the Federal Judicial Salary Restoration Act of 2007  
Executive Business Meeting  
December 13, 2007

Today I hope we can turn to the Federal Judicial Salary Restoration Act of 2007. I introduced this bipartisan legislation with Senators Hatch, Feinstein, Graham, Reid, and McConnell almost six months ago. This bill would authorize an immediate and significant increase in federal judicial salaries to recognize the important constitutional role judges play in administering justice, interpreting our laws, and providing the ultimate check and balance in our system of government. Since 1969, the salaries of federal judges have significantly declined when adjusted for inflation.

Eight years ago, Congress saw fit to double the President's salary to \$400,000 a year. We are not proposing to increase judges' salaries by 100 percent, but by half that -- by 50 percent.

Our democracy and the rights we enjoy depend on a strong and independent Judiciary. If judges leave the bench for financial reasons, the independence of the Judiciary is compromised. Surely we can do half as much for the judicial branch of government as we did for the Executive eight years ago.

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